

10/596334

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 56332	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/013349	International filing date (day/month/year) 24.11.2004	Priority date (day/month/year) 19.12.2003
International Patent Classification (IPC) or national classification and IPC B25D17/08		
Applicant WACKER CONSTRUCTION EQUIPMENT AG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 3 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013349

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:

- ☐ international search (Rule 12.3 and 23.1(b))
☐ publication of the international application (Rule 12.4)
☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages 1, 2, 4-13 as originally filed/furnished

pages* 3, 3a received by this Authority on 19.10.2005 with letter of 19.10.2005

pages* _____ received by this Authority on _____

☒ the claims:

nos. 3 (in part), 4-14 as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 1, 2, 3 (in part) received by this Authority on 19.10.2005 with letter of 19.10.2005

nos.* _____ received by this Authority on _____

☒ the drawings:

sheets 1/4-4/4 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/013349

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-14</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims _____	YES
	Claims <u>1-14</u>	NO
Industrial applicability (IA)	Claims <u>1-14</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

1. Reference is made to the following documents:

D1: GB-A-1 505 907 (DUSS F GMBH & CO), 5 April 1978
(1978-04-05)

D2: DE 41 36 584 A1 (HILTI AG, SCHAAN, LI; HILTI AG,
SCHAAN), 13 May 1993 (1993-05-13)

D3: DE 37 16 915 A1 (ROBERT BOSCH GMBH; ROBERT BOSCH
GMBH, 7000 STUTTGART, DE), 8 December 1988
(1988-12-08)

The application fails to meet the requirements of
PCT Article 33(1) because the subject matter of
claims 1 to 14 does not involve an inventive step
(PCT Article 33(3)).

Document D1 discloses the following (the references
in parentheses are to D1):

Device for a rotary hammer and/or percussion hammer,
with a tool fitting for holding a tool (331) and
transmitting a torque to the tool (331), the tool
fitting having:

- a substantially hollow-cylindrical recess (37)

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

which forms a tool holder and has an insertion opening in one end face, into which an insertion end of the tool (331) can be inserted, and which also has a striker opening in the opposite end face, through which a striking action can be applied to the insertion end;

- at least one rotary driver dog (32) formed on the inside of the tool holder; and
- at least one locking element (32) (see page 3, lines 12 to 15) which in its locking condition is held in a predefined radial position, and which in its release condition can be moved in at least the radial direction out of the predefined radial position;
- wherein a stop face which acts in the axial direction of the tool holder is provided on an inside wall of the tool holder near the striker opening.

The subject matter of claim 1 differs from the known device in that the rotary driver dog is **in the form of a ridge**, and in that the rotary driver dog and the locking element are separate components (see "and" the description, page 3, line 37).

The locking element 32 in document D1 combines, in a single component, the functions of the driver dog and the locking element specified in the amended claim 1. The tool fitting of D1 can only be used for relatively small low-powered rotary hammers.

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Box No. V

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The problem addressed by the present invention can thus be seen as that of designing a tool fitting which can be used for high-powered medium-duty and heavy-duty rotary hammers, in particular for clutches of the type known as "SDS-max", and which is characterised by (*inter alia*) the fact that the insertion ends of the tools have driver grooves that are open at the rear and transmit the high torques associated with high-powered rotary hammers by acting against fixed ridges.

The solution proposed in claim 1 of the application cannot be considered inventive (PCT Article 33(3)) because these features have already been employed for the same purpose many times in similar tool holders (see, for example, DE 37 16 915 (document D3)). A person skilled in the art wishing to achieve the same purpose with a tool fitting as described in D1 could easily incorporate these features with similar results. It would thus be possible to arrive at a tool fitting as defined in claim 1 without making an inventive contribution.

3. Dependent claims 2 to 14 do not contain any features that meet the PCT requirements in respect of inventive step when combined with the features of any of the back-referenced claims. The reasons for this are as follows:

- 3.1 All the additional features specified in claims 2, 4, 5 to 8, 10 to 12 and 14 are known from D1. These claims therefore do not add anything novel.

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Box No. V

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3.2 All the additional features specified in claims 1, 2, 4, 6 and 10 to 14 are known from D2. These claims therefore do not add anything novel.

3.3 The features specified in claims 3, 5 and 9 have already been employed for the same purpose in similar tools (see documents D2 and D3). To a person skilled in the art it is therefore obvious that these features can be incorporated in a tool as known from D1 with similar results so as to arrive at a tool as claimed in claims 3, 5 and 9.